

# SUNSHINE ADVISORY

A Bulletin on Iowa Open Meetings and Public Records Laws

By Attorney General Tom Miller – June 2005

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## Two Strikes and You're Out! *Courts can remove public officials from office on the second violation of sunshine laws*

Courts in Iowa can literally oust an official from office for violating "sunshine laws." (See Iowa Code sec. 21.6(3)(d) and 22.10(3)(d)). In fact, as of July 1, courts "shall" remove from office any public official on the second violation for which monetary damages are assessed.

Prior to July 1, 2005, removal from office was reserved for the most egregious repeat offender -- an official could only be removed from office on the third violation for which monetary damages were assessed against the official in office. (See Dec. 2003 Sunshine Advisory -- "What is the Cost for Noncompliance? Monetary costs for violating Iowa's sunshine laws can be imposed on individual officials or drain the budget of a governmental body.") So, penalties increase substantially as of July 1 for a "second strike."

**In summary, penalties for violating sunshine laws the second time include the following:**

- **Removal from Office:** Upon finding that a government body has violated the Open Meetings Law, or that a lawful custodian has violated the Public Records Law, a court shall remove the person from office if that person has engaged in one prior violation for which damages were assessed during the person's term. Iowa Code secs. 21.6(3)(d), 22.10(3)(d), as amended by House File 772 (2005).
- **Injunction and Civil Contempt:** Upon finding that a government body has violated the Open Meetings Law, or upon finding that a lawful custodian has violated the Public Records Law, a court may issue an injunction punishable by civil contempt ordering members to refrain from future violations for one year. Iowa Code secs. 21.6(3)(e) and 22.10(3)(a). If a second violation occurs while the injunction is in place, the official could be held in civil contempt. This can mean additional damages, or even jail time. See Iowa Code sec. 665.4.

**Remember: Persons who are elected or appointed to serve Iowans have a duty to comply with Iowa's sunshine laws. Responsible public officials don't "strike out!"**

Citizens who have inquiries or complaints about public records or open meetings may call the Iowa Citizens' Aide/Ombudsman Office – toll-free at 888-IA-OMBUD (888-426-6283.)

"Sunshine Advisory" bulletins provide information on Iowa's public records and open meetings laws – our "Sunshine Laws." The bulletins are a resource for public officials and citizens. Local officials should obtain legal advice from their counsel, such as the city or county attorney.



**Iowa Attorney General's Office: Hoover Building, Des Moines, Iowa 50319.**

On the Web: [www.IowaAttorneyGeneral.org](http://www.IowaAttorneyGeneral.org) . (Click on "open government.")